



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on May 24, 2004_____

Date of Meeting: May 12, 2003

The Mayor and Council of the city of Tucson met in regular session, in the Mayor and Council Chambers in City Hall, 255 West Alameda, Tucson, Arizona, at 7:36 p.m., on Monday, May 12, 2003, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Steve Leal	Council Member Ward 5
Fred Ronstadt	Council Member Ward 6
Robert E. Walkup	Mayor
Kathleen S. Detrick	City Clerk

Absent/Excused:

Shirley C. Scott	Vice Mayor Ward 4
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Staff Members Present:

James Keene	City Manager
Mike Letcher	Deputy City Manager
Eliseo Garza	Solid Waste Management Director
Bob Martin	Parks & Recreation Assistant Director
Randy Kitchen	City Court Administrator
Scott Douthitt	Finance Director
Albert Elias	Comprehensive Planning Task Force Director

Michael House	City Attorney
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Daniel Jacobs	City Clerk's Office
Leonard Castro	City Clerk's Office
Stephanie Juarez	Recording Secretary
Gar Smith	Recording Secretary

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Bishop Thomas W. Nelson, The Church of Jesus Christ of Latter Day Saints, after which the pledge of allegiance was presented by the entire assembly.

Presentations

A. Safety Awareness Family Education Days Proclamation

Mayor Walkup proclaimed April 5 to June 1 as Safety Awareness Family Education (S.A.F.E.) Days and presented the proclamation to Terry Feinberg.

Mr. Feinberg said his organization appreciated the recognition and the opportunity to be such active participants in the Tucson community. It had been a successful program in its inaugural year and throughout the state almost 4,000 people would get the training during the two months.

B. Youth of the Year Award

Mayor Walkup awarded George Yslave the "Youth of the Year Award—Arizona Boys and Girls Club".

C. Community Emergency Response Training (CERT)

Council Member Dunbar announced that the Citizens Core Council for Homeland Security of Southern Arizona operates with volunteers in the community. It started from the White House Initiative for Homeland Security and Citizens Preparedness. Shortly after September 11 (9-11), the mayor and Mrs. Walkup and a group of volunteers were concerned as to whether or not Tucson had a plan. They copied the plan that was the Community Emergency Response Training (CERT), which originated in Los Angeles. In Los Angeles, it was realized that in the case of a catastrophic event, the first responders would be ordinary citizens who would have to be trained to take care of direct emergencies.

Council Member Dunbar noted that Judy White, Deputy Director of Neighborhood Watch of the Citizens Core Council, came to ward three and asked if they would be the test pilot for a ward-wide training programming. Those who were present, wearing green helmets and green vests, were the volunteers. They met for a total of 20 hours on a couple of Saturdays, and they went through the CERT training.

Council Member Dunbar thanked Sherry Howell and presented her with a certificate for being the greatest teacher ever. She made 20 hours go really fast. All of those present who were CERT certified would receive certificates and Ms. Howell was going to explain what they learned and went through.

Ms. Howell thought it was fantastic that there were people in the community willing to volunteer. It was more than a 20-hour program, it was a lifestyle. The volunteers made great changes in their lives to do this. Their training consisted of preparing people for a disaster. All the volunteers know about having 72-hour kits and how to put them together,

but they have especially learned when to use them and why they have them. They all learned how to handle a fire extinguisher, so anyone who is not trained to use one can get training from the CERT program. All of the CERT trainees know how to put out a small fire so it doesn't become a large one. They all learned medical first aid. They know how to splint broken bones, how to triage, and how to sort out people by what happens to them. They also know how to do search and rescue. They each, on their own, cribbed up and picked up a minimum of 2,000 pounds with a pry bar. If something falls on someone as a result of a disaster, the CERT trainees know how to get the person out from under it. They learned disaster psychology and team organization in order to help victims recover from what happens to them. They learned about terrorism and how it affects the community. The volunteers put in 20 hours, but they can carry that experience a long way.

Mayor Walkup presented the CERT certificates to Council Member Dunbar and all the trainees in the group.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 284, dated May 12, 2003, would be received into and made a part of the record. He said this time was scheduled for members of the council to report on current events, and asked if any council member had anything to report.

Council Member Dunbar announced that the combination town hall with ward three and ward six had been changed to June 11 at 6:30 p.m. at the ward three council office. Topics of discussion would be reversible lanes on Grant Road, the light at Dodge and Grant, and pedestrian flash crosswalks.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced that city manager's communication number 285, dated May 12, 2003, would be received into and made a part of the record. He also announced that this time was scheduled to allow the city manager to report on current events.

A. UA/City of Tucson Leadership Meeting

James Keene, city manager, announced that the University of Arizona, the city of Tucson leadership, and staff met at the Manning House on May 6 to review collaborative work for the past year. He thought it fair to say that they had transformed their relationship. There were presentations on the proposed U of A Science Center, downtown housing opportunities the university is considering, and transportation improvements near the campus were unveiled.

B. El Presidio

Mr. Keene said on May 10 the El Presidio Enhancements were hosted by the El Presidio Neighborhood, Council Member Ibarra and Mayor Walkup. They joined in the festivities for the original Camino Real, one of the oldest streets in Tucson, having utilities underground and the installation of medians.

C. George Lopez Show

Mr. Keene said the George Lopez Show was sold out at the Tucson Convention Center. More than 3,500 fans saw the comedian perform in the largest venue of Mr. Lopez' career to date.

D. Government Technology Magazine

Lastly, Mr. Keene noted that in the most recent issue of *Government Technology Magazine*, there was an article entitled "*The New Public Square*" that deals with conversation between citizens and government, and highlights the city of Tucson. The article stated, "An experiment in Tucson, Arizona, deserves attention. Deceptively simple, the city created an unmoderated, on-line public forum on the most contentious issue of the day, the city's budget. The instructions were simple. You're encouraged to offer suggestions, discuss issues, and even air gripes. The city got what it asked for on each of three fronts. There was talk about trash and a little trash talk. Tucson is one of those rare places where residents do not pay for trash pick-up at all." The article went on to talk about how the city had highlighted those issues, and those individuals who were watching that forum got to see that it was a real sort of over the back fence conversation between citizens, so it was a nice recognition for that effort.

5. CALL TO THE AUDIENCE

Mayor Walkup announced that this was the time for any member of the public to address the mayor and council on any issue that is not on the agenda. He would limit the speakers to three minutes for a total of 20 minutes. He called on those who had submitted request to speak cards.

A. Troops' Welcome

Robert Black, thanked the mayor and council for creating the banner recognizing those who would be returning home from the most recent tour of duty. He appreciated the council's thoughtfulness and concern. Many in the community, as well as members of the Armed Forces, appreciated that too. In light of that, he gave the mayor and council tee-shirts with the logo, "Support America, Support our Troops Rally." He also thanked the council for their support in keeping the controversial "A," red, white, and blue.

Mr. Black continued that many in the community were aware of the considerations of city resolutions, protesting this and that. It saddened him to know that the very individuals who supported such resolutions would sometimes stoop to whatever level necessary to possibly demean or speak unfavorably of things that the city of Tucson wants to do to support the troops and the community. He was sure that everyone was aware that human beings are not perfect and he realized that he was not a paragon of virtue, and he hoped the mayor and council could do the same. The character of all individuals is manifested by behaviors demonstrated when disagreeing with others on major issues. He said today, more than ever, the community was watching the mayor and council and was evaluating their effectiveness as elected officials. There has always been disagreement between the political parties in this country, however, leadership, regardless of party affiliation, rests upon the ability to work together on major issues meant to serve the community.

Some of the elected officials understand the meaning of leadership. He asked how many were willing to demonstrate leadership qualities. Mr. Black said in his opinion that was the job to which each of the members of the council were elected. When elected officials work to destroy one another for selfish reasons by raising issues that are meant to destroy, then it's time for them to look in the mirror and in the process and with the passage of time, they could very well destroy themselves with their own self-generated hatred. Voters were well aware of what was going on.

Mayor Walkup advised Mr. Black his time limit had expired.

Mr. Black knew that the hunger and thirst for power and revenge at any cost led to absolute power. Absolute power absolutely corrupts. He understood the reason for some concern regarding the Patriot Act. However, he asked how such a decision or protest could be made when a document had not been read or thoroughly understood? It is 86 pages long. What positive effects would a resolution of this nature have on the city of Tucson? In his opinion, the city charter needs to more thoroughly define the purpose and scope of a resolution for the city of Tucson. Resolutions need to focus on the issues and needs of the city and of its citizens. The elected officials should get down to the business for which they were elected.

On issues of great concern, nationally, the governing body should call, write, or e-mail elected officials in Washington, and express their concerns as a leader in the community. That would have a greater effect than a resolution of protest and also carried much more weight than a non-elected individual expressing their concerns. Regardless of party affiliation, the governing body needs to lead and set an example for all of the community, which would make the community proud of their elected officials.

B. USA Patriot Act Revisited

Bill Katzel, said he of all people was against terrorism. He had a national proposal before Major General Hilton, at Fort Huachuca, for citizens against terrorism. He appreciated the patriotic intent of the governing body, but it did not excuse them from becoming completely informed on the USA Patriot Act, before voting on such a vital piece of federal legislation. He said he would provide an example of the abuse of power under the USA Patriot Act. He called the council's attention to two recently published articles in local newspapers. The article detailed a horrific experience by patrons of a restaurant who were subject to abuse under the authority of the USA Patriot Act. They were guilty of doing nothing more than eating in the wrong restaurant at the wrong time. Abuses of this kind are unconscionable. There are no current remedies for those types of abuses under the USA Patriot Act. Anyone could be subject to the same type of abuse for just enjoying their liberties under the United States Constitution.

Mr. Katzel suggested that each member of the council acquire a copy of the USA Patriot Act, read it, analyze it, digest it, and after doing so, he was sure they would find the potential abuse of power as chilling as he had after digesting the Act's potential abuse of power against the law abiding citizens of the United States of America.

C. PCIC/City Budget

Andrea Robson, said she is a member of St. Francis' Methodist Church and a co-chair of Pima County Interfaith Council. They had been watching the budget process and they had some comments to make on leadership. She asked the members of PCIC to stand. She continued that a budget was a statement of a city's values. People invest on what they think is important; such as investing heavily in public safety, in a city's infrastructure, and they say they invest in the future of the city, for its economic development and the development of its people. She asked why, then, was the city proposing to balance the budget on the backs of working families?

Ms. Robson noted that on Saturday, Governor Napolitano, was with PCIC at three events held in Tucson; a meeting at Casa San Juan, an assembly at El Pueblo Neighborhood Center, and the Governor gave the keynote speech at Job Path's graduation. The Governor's message throughout that day, being joined by legislators from both parties, was that it was wrong and unnecessary to balance the budget on the backs of those who could least afford it.

Ms. Robson said alternatives had been developed and she was sure the council was aware of them because the city's money and funding was tied up in those alternatives. Those proposing alternative ways of handling a budget crisis had exhibited leadership and creativity. She asked where the leadership and creativity was in the Tucson City Council. She said the council knows that Tucson has the largest non-mechanized rodeo parade, with lots of horses. About six years ago, she stood before the council and asked if they wanted to be leaders at the head of that parade, or if they wanted to be followers at the end, behind the horses. She was present to ask the same question. Where was the leadership, where is the council in this parade?

Mayor Walkup asked if anyone else wished to speak. There was no one.

6. CONSENT AGENDA – ITEMS A THROUGH G

Mayor Walkup announced that the city manager's reports and recommendations on the consent agenda would be received into and made a part of the record. He asked the city clerk to read the consent agenda by number and title only.

- * A. MEMORIAL: RELATING TO THE GRANTING OF AN APPLICATION FOR A CENTENNIAL PROJECT GRANT FOR A NATIONAL HERITAGE AREA ALONG THE SANTA CRUZ RIVER VALLEY
 - (1) Report from City Manager MAY12-03-281 CITY-WIDE
 - (2) A Memorial relating to the Center for Desert Archaeology; urging the Tucson Rotary Club to grant the application by the Center for Desert Archaeology for a Centennial Project Grant to formulate a feasibility study and plan for the possible creation of a National Heritage Area along the Santa Cruz River Valley.

* Deleted from consent agenda

- B. FINANCE: CONTINGENCY FUND TRANSFER FOR FAMILY COUNSELING AGENCY
- (1) Report from City Manager MAY12-03-290 CITY-WIDE
 - (2) Resolution No. 19584 relating to finance; approving and authorizing the transfer of Five Hundred Dollars (\$500) from the Contingency Fund to Organization 001-183-1838-268, for Family Counseling Agency; and declaring an emergency.
- C. FINANCE: CONTINGENCY FUND TRANSFER FOR RITA RANCH ANNUAL FAMILY FUN DAY
- (1) Report from City Manager MAY12-03-289 W4
 - (2) Resolution No. 19585 relating to finance; approving and authorizing the transfer of One Thousand Dollars (\$1,000) from the Contingency Fund to Organization 001-183-1838-268, for Rita Ranch annual Family Fun Day; and declaring an emergency.
- D. FINANCE: CONTINGENCY FUND TRANSFER TO SUPPORT A BEAU BRUMMEL CLUB FUNDRAISER FOR THE DUNBAR COALITION PROJECT
- (1) Report from City Manager MAY12-03-288 CITY-WIDE
 - (2) Resolution No. 19586 relating to finance; approving and authorizing the transfer of Five Hundred Dollars (\$500) from the Contingency Fund to Organization 001-183-1838-268, for Beau Brummel Club, Inc.; and declaring an emergency.
- E. FINANCE: CONTINGENCY FUND TRANSFER FOR BACK TO SCHOOL BASH 2004
- (1) Report from City Manager MAY12-03-287 W4
 - (2) Resolution No. 19587 relating to finance; approving and authorizing the transfer of Five Thousand Dollars (\$5,000) from the Contingency Fund to Organization 001-183-1838-268, for Back to School Bash 2004; and declaring an emergency.
- F. FINANCE: CONTINGENCY FUND TRANSFER TO SUPPORT THE HUMANE SOCIETY OF SOUTHERN ARIZONA
- (1) Report from City Manager MAY12-03-286 CITY-WIDE
 - (2) Resolution No. 19588 relating to finance; approving and authorizing the transfer of Seven Hundred Fifty Dollars (\$750) from the Contingency Fund to Organization 001-183-1838-268, for the Humane Society of Southern Arizona; and declaring an emergency.

G. FINANCE: CONTINGENCY FUND TRANSFER FOR SOVEREIGN ARTS SOCIETY INC.

- (1) Report from City Manager MAY12-03-295 CITY-WIDE
- (2) Resolution No. 19592 relating to finance; approving and authorizing the transfer of Seven Hundred Fifty Dollars (\$750) from the Contingency Fund to Organization 001-183-1838-268, for Sovereign Arts Society; and declaring an emergency.

It was moved by Council Member Dunbar, seconded by Council Member West, that consent agenda items B through G be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion and hearing none, called for the vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Consent agenda items B through G were declared passed and adopted by a roll call vote of 6 to 0.

7. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced that city manager's communication number 280, dated May 12, 2003, would be received into and made a part of the record. He asked the city clerk to read the liquor license agenda.

(b) LIQUOR LICENSE APPLICATION(S)

New License(s)

- | | |
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| <p>(1) WILD WINGS
3007 E. Speedway
Applicant: Richard C. Smith
City #020-03, located in Ward 6
Series #12
Action must be taken by: May 24, 2003</p> | <p><u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Bus. License: In Compliance</p> |
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- (2) CITY LIMITS Staff Recommendation
6350 E. Tanque Verde Road
Applicant: Bradley J. Nozicka Police: In Compliance
City #021-03, located in Ward 2 DSD: In Compliance
Series #6 Bus. License: In Compliance
Action must be taken by: May 25, 2003
Public Opinion: Support Letter Filed

(c) Special Event(s)

- (1) RONALD MCDONALD HOUSE CHARITIES Staff Recommendation
221 E. Wetmore Road, Funtasticks
Applicant: Diana G. Sheldon Police: In Compliance
City #T041-03, located in Ward 3 DSD: In Compliance
Date of Event: May 31, 2003
(To raise money for programs of charity)
- (2) ROADRUNNER CIVITAN CLUB Staff Recommendation
4823 S. 6th Avenue, Tucson Rodeo Grounds
Applicant: Diana M. Williams Police: In Compliance
City #T042-03, located in Ward 5 DSD: In Compliance
Date of Event: May 17, 2003 Parks & Rec.: In Compliance
(To raise funds for school supplies for homeless women and children)
- (3) SANTA RITA EXCHANGE CLUB Staff Recommendation
4823 S. 6th Avenue, Tucson Rodeo Grounds
Applicant: Richard D. Medran Police: In Compliance
City #T043-03, located in Ward 5 DSD: In Compliance
Date of Event: May 24, 2003 Parks & Rec.: In Compliance
(KLPX Fest 2 concert /fundraiser)

(d) Extension of Premises

- (1) SHARKY'S URBAN SPORTS GRILL, Staff Recommendation
INC., DBA - FAT TUESDAY
800 E. University Blvd. Police: In Compliance
Applicant: S. Jerome Stuart DSD: In Compliance
City #EP18-03, located in Ward 6
Date of Event: June 1, 2003
Type: Temporary
Series: #12
(Celebration of Grand Opening in conjunction with the New Orleans Jazz and Heritage Festival)

Kathleen S. Detrick, city clerk, reported that all of the liquor license applications carried staff recommendations for approval, so the appropriate motion would be to forward items 7(b)(1-2); 7(c)(1-3); and item 7(d)(1), to the state department of liquor licenses and control with recommendations for approval.

It was moved by Council Member Leal, seconded by Council Member Ronstadt, and carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused), to forward liquor licenses city application numbers 020-03, 021-03, T041-03, T-042-03, T043-03, and EP18-03, to the state liquor board with a recommendation for approval.

8. SOLID WASTE MANAGEMENT: PROPOSED REFUSE COLLECTION RATES AND MISCELLANEOUS REFUSE FEES

Mayor Walkup announced that city manger's communication number 293, dated May 12, 2003, would be received into and made a part of the record. He asked the city clerk to read resolution no. 19590 by number and title only, without objection.

Resolution No. 19590

Relating to solid waste management; pursuant to Tucson Code Section 15-31.1, authorizing and approving the director of solid waste management's proposed requirements, charges, and fees for the city's collection, recycling, and disposal of refuse, and ancillary services, during Fiscal Year 2003-2004, to take effect July 1, 2003; and declaring an emergency.

Kathleen S. Detrick, city clerk, noted that she had several clerical corrections to announce, all to Attachment B, to resolution no. 19590. The first one was to section 2.3, page 7 of the attachment. The line that reads "five-dollar rental fee guidelines" should be deleted. Section 2.6.2, page 9, in the attachment, in the first chart, the words "collections per week" should be followed by the words in parenthesis "(same day collections)". The remaining corrections have to do with clarifying that the responsibility lies with the director of solid waste management, not the director of finance. Section 5.3, page 17 in the second line of the section, the words "City Finance" should be deleted so that the line just reads "the director shall". Section 5.5 (a), same page, third line, "finance" should also be deleted. Page 18, Section 5.5. (b) the same correction should be made deleting the word "finance" in line one. Section 5.6.1., on the same page, the same correction should be made to line one and to line five, deleting the words "of finance". Section 5.6.2., on page 19, the same correction should be made to line one and five, deleting the words "of finance." In the same section. 5.6.2., page 19, the same correction was being made to the second and fourth lines deleting the words "of finance."

It was moved by Council Member West, seconded by Council Member Ronstadt, that resolution no. 19590, as amended, be passed and adopted.

Mayor Walkup asked if there was any discussion, and hearing none, called for the vote.

Upon roll call, the results were:

Aye: Council Members West, Dunbar, and Ronstadt; Mayor Walkup

Nay: Council Members Ibarra and Leal

Absent/Excused: Vice Mayor Scott

Resolution no. 19590, as amended, was declared passed and adopted by a roll call vote of 4 to 2.

For purpose of the emergency clause, and that purpose only, Mayor Walkup asked for a second roll call.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Resolution no. 19590, was declared passed and adopted by a roll call vote of 6 to 0, with the emergency clause.

9. SOLID WASTE MANAGEMENT: AUTHORIZING THE “TUCSON CLEAN PROGRAM” AND APPROVING THE SOLID WASTE COLLECTION SERVICES RULES AND PROCEDURES

Mayor Walkup announced that city manager’s communication number 294 dated May 12, 2003, would be received into and made part of the record. He asked the city clerk to read resolution no. 19591 by number and title only, without objection.

Resolution No. 19591

Relating to Solid Waste Management; authorizing and approving the “Rules, Procedures and Regulations for Solid Waste Management Department Services 2003-2004,” to take effect July 1, 2003; and declaring an emergency.

Mayor Walkup asked the council’s pleasure.

It was moved by Council Member West, seconded by Council Member Ronstadt, to pass and adopt resolution no. 19591.

Mayor Walkup asked if there was any discussion, and hearing none, called for the vote.

Upon roll call, the results were:

Aye: Council Members West, Dunbar, and Ronstadt; Mayor Walkup

Nay: Council Members Ibarra and Leal

Absent/Excused: Vice Mayor Scott

Resolution no. 19591 was declared passed and adopted by a roll call vote of 4 to 2.

For purposes of the emergency clause, and that purpose only, Mayor Walkup called for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Resolution no. 19591 was declared passed and adopted, by a roll call vote of 6 to 0, with the emergency clause.

Eliseo Garza, solid waste management director, noted that staff had copies of the summary of the enhanced brush bulky program, Tucson Clean Program, for the mayor and council, and they could either be passed out at the meeting or sent out to their offices.

James Keene, city manager, said the summaries would also be provided to the public, and he would explain what the expanded program was all about. He knew some of the council members wanted a sheet identifying the changes.

Mayor Walkup requested that that information be passed out at the meeting.

10. DEVELOPMENT SERVICES: AMENDING DEVELOPMENT SERVICES FEES FOR CODES AND PERMITS

Mayor Walkup announced that city manager's communication number 291, dated May 12, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9848 by number and title only, without objection.

Ordinance No. 9848

Relating to fees for building and development; amending fees charged by the Development Services Department for development review, code review and permits; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member Leal, seconded by Council Member West, that ordinance no. 9848 be passed and adopted.

Mayor Walkup asked if there was any discussion, and hearing none, called for the vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Ordinance no. 9848 was declared passed and adopted by a roll call vote of 6 to 0.

11. WATER: ADOPTION OF WATER SYSTEM EQUITY FEE (CONTINUED FROM MEETING OF MAY 5, 2003)

Mayor Walkup announced that city manager's communication number 292, dated May 12, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9842 by number and title only, without objection.

Ordinance No. 9842

Relating to water; amending certain portions of the Tucson Code, Chapter 27, Article II, rates and charges, Section 27-32.1, monthly reclaimed water service charges, Section 27-33, monthly potable water service charges, Section 27-35, charges for installation of water service connections, Section 27-36, area-specific water development fee, Section 27-37, agreements for construction of water facilities authorized, Section 27-38, provisions for refund of cost of water mains or water facilities installed by private contract under certain conditions authorized, Section 27-43, charge when meter not registering properly; and declaring an emergency.

It was moved by Council Member Dunbar, seconded by Council Member Ronstadt, to pass and adopt ordinance no. 9842, with the following additional conditions: 1) all houses currently in escrow or lots that have water service connection applications on record prior to August 11, 2003 shall not be charged the fee; 2) the water equity fee should not be collected until August 11, 2003; 3) the water equity fee shall be brought back to mayor and council when a more comprehensive study of all proposed impact fees is considered—the water fees cannot be looked at in isolation from the other impact fees the city may charge—; 4) city staff will ensure that the homebuilder community will be consulted in development of all proposed impact fees; 5) city staff shall be directed to design a mechanism whereby these fees can be placed as a separate item on the home purchaser's closing statement; and 6) city staff shall be directed to continue to explore providing credits for water users who are currently and have been paying into the water system.

Mayor Walkup asked if there was any discussion, and hearing none, called for the vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Ordinance no. 9842, as amended, was declared passed and adopted by a roll call vote of 6 to 0.

11A. TUCSON CODE: AMENDING (CHAPTER 21) RELATING TO CHARGES FOR PARKS AND RECREATION FACILITIES AND PROGRAMS

Mayor Walkup announced that city manager's communication number 296, dated May 12, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9850 by number and title only, without objection.

Kathleen S. Detrick, city clerk, said she had a couple of corrections to announce before reading the ordinance caption. In the caption, third line, there is a clerical correction. It presently reads "21.1" and it should be "21-1;" the next line, "21.2," should be "21-2." Under section 1, first line, reads, "section "21.1," and should be "21-1."

Ordinance No. 9850

Relating to parks and recreation; amending Chapter 21 of the Tucson Code as follows: adding, deleting and amending definitions by amending Section 21-1; establishing the duties of the Director by amending Section 21-2; amending vendor fees by amending Subsection 21-4(C)(6) and deleting Subsection 21-4(C)7; amending fees for consumption of malt beverages by amending Section 21-8; amending fee formula for adult majors sports by amending Subsection 21-9(1); increasing swimming fees by amending Section 21-12; amending recreational class fee formula by amending Section 21-13; increasing Kidco registration fees by amending Section 21-13.1; increasing senior trip program fees by amending Section 21-13.2; extending fees for use of gymnasium or weightrooms to include Archer, Quincie Douglas, Northwest, and Santa Rosa Center, by amending Section 21-14.1; establishing fee formula for commercial use by adding Sections 21-14.2(1) and 21-16(1)(1); establishing non-city resident rate formula by adding Section 21-15; increasing fees for use of certain parks facilities by amending Section 21-16; prohibiting the damaging of parks property by amending Section 21-19; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

Council Member Leal noted someone had indicated a desire to address the council.

Lucy Fuentes, said she is a member of PCIC, and a catechist at Our Lady Queen of All Saints. She was speaking not just for herself. She was also speaking for the 500 PCIC members who participated on Saturday from various churches, schools, and synagogues and thousands of members who took part with PCIC. She had two points to make. One, she has a niece with five children who works at a pizza place and her husband works at a second-hand store, barely making ends meet. They could not afford to send their five children to KIDCO. Secondly, if the money that her niece would invest in KIDCO, would go to KIDCO and its activities, then maybe it would be possible to have her kids attend.

Daniel Garcia, also representing PCIC, noted that earlier a group was given awards on the issue of public safety, which PCIC commends. PCIC is also concerned about public safety and it comes in light of the issue of KIDCO, and the program that they feel is an important issue, specifically in regards to public safety. The children are at risk being out on the street, having no place to go, because of the funding cuts that would occur, if the proposed cuts go through. PCIC believed that it was essential to keep these programs alive and active as much as possible for the working families and community. If it was an economic issue, then the council, or city, should not have spent \$800,000 on advertising and campaign for a transportation tax. That would have sent thousands of kids to a KIDCO program where they would have a place to be after school.

Mr. Garcia said there were other plans in the proposed program block, such as the rodeo, fireworks, and such issues. That money could be used for public safety also instead of entertainment and for the purpose of keeping the children safe in areas where they need to be, such as in schools. He indicated that it was essential to have that as part of the agenda for the community. PCIC planned to do just that. They would be working with the churches all summer to keep those issues as their primary focus, so when it came down to election time, they would know who to vote for.

Council Member West asked if last year's registration for KIDCO was \$20 per semester or year?

Bob Martin, Director, Parks and Recreation, said that was a per year registration fee.

Council Member West asked Mr. Martin if the waiting list was affected by that registration fee.

Mr. Martin said it was. Basically, over the last year, the waiting list had doubled; from about 350 children to about 700.

Council Member West said even though there was a fee, the waiting list was longer. She asked if that was the case.

Mr. Martin said it was.

Council Member West said she understood a sliding fee scale is used for KIDCO. She asked what the fee would be for one year, for one child, under the federal poverty guidelines. She asked if it was \$17.50.

Mr. Martin said that was correct. If a child qualified for a 90% discount to attend both school sessions, during the fall, spring, and summer semesters, the total would be \$17.50. He added that there was also the new Dan Felix Memorial Fund, that was set up by Mrs. Felix and that would be an additional source of scholarship revenue.

Council Member West asked how parents, such as the woman who addressed the council, would find out about how to apply for the scholarship.

Mr. Martin said for the sliding scale discount, all someone had to do is call class registration, where the registration for KIDCO occurs, and they could provide the necessary information. A person could also contact registration related to the Felix Memorial Fund, which had just been established.

Council Member West asked if it was going to be possible for any of the council members to use their contingency funds to put in the Felix Memorial Fund, for KIDCO.

Michael House, city attorney, said there would not be any legal prohibition against doing that.

Council Member West said there seemed to be some misunderstanding about this registration fee paid for KIDCO. She asked what percentage the city was subsidizing KIDCO, even with the registration fee.

Mr. Martin said with the new rate increase, the cost recovery rate would be at about 37%, so the subsidy would still be over 60%.

Council Member West noted that the city was still heavily subsidizing the program. She asked if the registration fee was actually used for the program. If she put her grandchild into KIDCO and made out a check for \$50, would that money go towards her child's KIDCO program?

Mr. Martin said that was correct. When someone registered for a class or KIDCO program, the dollars go directly towards their registration.

Council Member West thought there was some confusion about that. She didn't know of any place else that provided this kind of a program, after school, for a whole semester, for \$50. That's five days a week, after school, for however many weeks in a semester.

Mr. Martin noted that TUSD semesters are 18 weeks long and at \$50 per semester, it was about \$2.75 per week.

Council Member West noted that that was a really good price. She certainly agreed that the community's children need to be taken care of. That meant that there had

to be a partnership in the community, between the churches too. She thought a lot of churches were beginning to provide after school programs, which she commended them for. She also thought the private sector needed to get involved and certainly, the city had stepped up to the plate. She noted that there was an article in the newspaper about daycare, but this was not about daycare. It was an after school program. She said all levels of government needed to be involved in daycare and after school programs.

Council Member West added that the city council was showing leadership by carrying out these programs. If the council did not raise the fees, there was not going to be any program, it was as simple as that.

It was moved by Council Member West, seconded by Council Member Dunbar, to pass and adopt ordinance no. 9850, as recommended by the city manager.

Mayor Walkup asked if there was any discussion.

Council Member Ibarra said he thought that the issue was not just about KIDCO. This particular fee increase on parks and recreation was an attack on kids. KIDCO in and of itself, was going to go from \$20 per school year to \$50 per semester; and from \$20 for summer session to \$75 per summer session. Activities like little league baseball, parks and recreation was going to pay for the first two hours of night baseball and softball field lights, but then after that, the league was going to be charged. So the kids get to play in 115 degree weather to enjoy themselves because they know that they only have lights for two more hours, and after it gets dark, they start paying.

Council Member Ibarra said the most interesting and telling program was with respect to the swimming lessons. For youth under 17, for two weeks of swimming lessons, the cost is \$10. Without considering the monetary value, the whole point that the council had been trying to instill in kids throughout the summer was pool safety. People have to make sure their kids know what it's like to be around a pool, that there is adult supervision, and that there is an immediate communication level so in case a child falls into a pool, they know what to do. Now, the city is charging the kids to learn how to swim. That is backwards thinking.

Council Member Ibarra said he was going to vote against the motion, but he didn't think that the community organization that addressed the council was just talking about KIDCO. He thought they were using that as an example of a lot of things that were going on. What the proposed parks and recreation fee does is it attacks kids. The ramifications and consequences of this rate increase would not be seen next year or in two years, but four or five years down the road. The same thing happened about 15 years ago. Talking about leadership includes the short-term and long-term goals. When someone is shortsighted, they end up destroying the long-term goals so a much deeper situation occurs. He was talking about law enforcement.

Council Member Ibarra apologized to his colleagues, because he did not mean to make the issue personal. However, the fact of the matter was, it was not just an issue related to KIDCO, but a lot of issues about kids. He felt passionate about this issue and he thought the issue of swimming lessons pretty much said it all to him.

Council Member Leal noted that the question was asked about the waiting list, and he thought it was important to bear in mind that people should not be confused that the waiting list was a measurement of unmet needs. The waiting list by no means is a measurement of unmet needs. It was simply a measurement of those people who could pay, who have put their names on a list until there is a place available. Just because the waiting list had grown, did not mean the system really worked for the community in the way it was needed by the community. That was a misnomer and he thought that perspective clarified that.

Secondly, the city argued that the park and recreation fees, last year, only raised nine percent of the budget of parks and recreation, and that the city's goal was to get to 30% recovery. That would be a 165% increase over time. It was interesting that staff said that the fees in this case were already generating a 36% recovery. Since the city raised fees for KIDCO to such a point that they not only hit the 30%, they went past it, while the rest of the system was at 13% recovery rate.

Council Member Leal said the proposal indicated that there is a sliding scale, there are scholarships. All those things look okay on paper, but they forget, overlook, and do not take into consideration the reality of people's emotions and daily life. Poor kids have pride. They are already stigmatized enough without having to yet again, come up and say, I'm a poor kid, give me a special deal, okay, huh, how about it. The city should have a system that treats people equally, not one that forces poor people to further stigmatization, to get something that other people can get more easily. He thought that was just mean and indifferent.

Council Member Leal said what Council Member Ibarra said was correct. The kind of dysfunction in the way this proposal was put together, telling kids the city wants them to swim and be safe from drowning, during the summer time, yet, the city was making it hard for them to learn how to do that. The city was setting itself up as a society that had forgotten the lesson of either paying at the front end, or the back end. In five years, he asked if more police officers and more jail beds were going to be demanded because more of children had become delinquents because the city had failed them in terms of things to do and places to be. He said facilities had been created, but the city was now creating a fee structure that kept out the very people they were built for. He said the city should be ashamed.

Council Member Leal noted that there were other things that could have been done. Full cost recovery could have been done on liquor license applications, but the council had sympathy for those folks. It was going to cost \$150,000 for the next two years to soften the burden for people who want liquor license applications, but not the kids.

Mayor Walkup said he took particular exception to the statement of "shame on the city." This city had done an extraordinary amount of work to protect all parts of the city; its children, adults, providing training for free, transportation, and people who were underutilized, and helping them find quality jobs. He thought the city was very compassionate about their children and he thought they cared about all parts of the city. One of the things that the mayor and council had to do was that they had to find out a way to balance the budget, that would not jeopardize the community's families and children. It would be very easy for the council to go and borrow money and pay for today, and then let the children suffer in the future.

Mayor Walkup noted that when he took a look at KIDCO, he asked the questions of how many total weeks were going to be covered during the summer, eight to ten hours a day for the children, for a potential of \$75 for the whole summer, and some \$7.50 for the whole summer. It seemed to him that that was a reasonable thing to do. He thought everyone would have preferred to cover 100% of the costs, and have the children attend programs for free. However, that's how a city goes broke. A city goes broke by making decisions to subsidize everybody at everything, and he did not think that could be done.

Mayor Walkup stated that he was very proud of the city and what the staff had done. He thought the mayor and council had addressed some tough issues. They had worked on improving the efficiency and effectiveness of government, on the cost side, but they had to raise revenues on the other side of the equation. Thirty-three percent of the budget is balanced with increases in revenues; 67% in reduced cost and efficiency of doing business. He thought that was what the people of Tucson wanted the mayor and council to do. He thought the council had not jeopardized families, nor children. They had provided ways for them to participate.

Mayor Walkup asked how many young people would participate in KIDCO this summer, for how many weeks, and how many hours a day? How many total kids?

Mr. Martin said this summer there was capacity for about 3,800 children. There were around 40 sites and the program would run for eight weeks, six hours per day.

Mayor Walkup asked if the cost for those who were less fortunate was going to be \$7.50, for that period?

Mr. Martin said yes. The 90% discount rate is \$7.50.

Mayor Walkup asked if there was further discussion.

Council Member Dunbar pointed out that in ward three, there was not even a recreation center. Some of her colleagues had been sitting on the council for a long time and the kids in ward three do not have a recreation center. There were 800 kids in the KIDCO program, ward five had 400, yet ward three had four of the highest stressed neighborhoods in all the city. It seemed to her that ward three had been neglected for a long time. The residents in ward three had been paying taxes to provide amenities in other wards, other than ward three.

Council Member Ronstadt said Tucson is an interesting town. There were very few people who had been in Tucson for any length of time. Tucson has a very transient population and about 3% migrate in and out every year. As a result, some of the institutional memory of the community is lost. Politicians generally get referred to as, tax and spend this, or tax and spend that. Unfortunately, the city had a situation where for the longest time they had no tax and spend. Members of the council wanted to give everything away for free, without any regard for what the costs and the long-term consequences were. He mentioned the institutional memory for a specific reason. In the early 90s, because the council members did not want to raise taxes, because things cost more, they raided the strategic reserve. They eliminated preventative maintenance on roadways and facilities. They eliminated vehicle replacement. As a result of raiding the reserve fund, the city lost its bond rating, and it cost the community \$20 million to get it back. That's an increased debt service and building the strategic reserve back up again.

Council Member Ronstadt continued that because the city stopped spending money on its roads, the condition of those roads was evident. The roads were in deplorable condition and it was a direct result of individuals on the council in the early 90s, who chose to spend on social service programs, and ignore the basic service and infrastructure of the community. In the early 90s, there was a situation where garbage trucks were breaking down in the middle of neighborhoods in the middle of summer, because they were not being replaced. He could not imagine anyone, who would like to have a loaded trash truck, break down in front of their homes. Fire engines and police vehicles broke down on the way to emergency calls. It got so bad, the city had to have a bond election to buy a fire engine. That was irresponsible and now, the community was presently reaping the result of that irresponsibility.

Council Member Ronstadt noted the city was raising fees and taxes because it was appropriate to do so. They could no longer give things away, regardless of whom they are for, and still expect to provide the basic infrastructure and its maintenance, for the community in the years to come. He thought it was sad that some council members used children as banners when they recognize the fact that the city had real costs and needs, and some people would rather play politics than address those issues head on.

Council Member West called the question.

Upon roll call, the results were:

Aye: Council Members West, Dunbar, and Ronstadt; Mayor Walkup

Nay: Council Members Ibarra and Leal

Absent/Excused: Vice Mayor Scott

Ordinance no. 9850, as amended, was declared passed and adopted by a roll call vote of 4 to 2.

For purpose of the emergency clause, and that purpose only, Mayor Walkup called for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt; Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Ordinance no. 9850, was declared passed and adopted by a roll call vote of 6 to 0, with the emergency clause.

11B. TUCSON CODE: AMENDING (CHAPTER 8) ESTABLISHING AN ADMINISTRATIVE COST RECOVERY FEE FOR CITY COURTS

Mayor Walkup announced that city manager's communication number 297, dated May 12, 2003, would be received into and made a part of the record. He asked the city clerk to read ordinance no. 9851 by number and title only.

Ordinance No. 9851

Relating to city court; amending the Tucson Code Chapter 8, City Court, Article 1 in general by adding Section 8-6.5, Case processing fee; exemption for indigent persons; deposit and use of funds collected; fee separate and distinct from any sentence or probation conditions or civil penalty; action for recovery authorized; and declaring an emergency.

Mayor Walkup asked the council's pleasure.

It was moved by Council Member West, seconded by Council Member Leal, that ordinance no. 9851, be passed and adopted.

Council Member West said with respect to the proposed administrative cost recovery fee, she still wanted to see a diligent collection of fines. It would be good to have a progress report relating to what percentage the city was actually collecting of its fines, at this point.

Randy Kitchen, city court administrator, said the process had begun of collecting old fines and sending out letters. He thought the city had sent out about 25,000 letters of past due fines of approximately half a million dollars. City Court had become very diligent in enforcing fines. In the very near future, city court would join a program run by the Arizona Supreme Court, called the Centralized Compliance Bureau, which would allow the city to implement collections, garnishments, and suspend people's auto registrations if they do not pay their fines. Also in the process of being established are web payments for these fines. The city court administration has taken this issue very seriously, and a high percentage of fines were being collected. He could get the exact numbers to the council.

Council Member West said it would be interesting to know what those numbers were. The information could be distributed to the council through e-mail. She congratulated city court staff for their diligent work.

Council Member Leal said some time ago, the council had worked on creating a pre-garnishment agreement mechanism, because going after people after the fact is always harder. A pre-garnishment agreement would be done at the time of sentencing. If the person did not make the first or second payment, then the pre-garnishment agreement would kick in and their salary would be affected. That was one way of improving recovery. He asked Mr. Kitchen if he had any idea how many of the magistrates utilized that tool.

Mr. Kitchen said he was not familiar with that method. The Centralized Compliance Bureau allowed garnishments, but he thought there might be some issues with the pre-garnishment method.

Council Member Leal asked if that meant they had done it and it was on a shelf and not being used.

Mr. Kitchen said he would take a look into that and bring back the information to the council.

Mayor Walkup asked if there was further discussion and hearing none, called for the vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Ordinance no. 9851 was declared passed and adopted by a roll call vote of 6 to 0.

12. ZONING: (C9-03-01) WPI KOLB AND I-10 LLC – KOLB ROAD, RX-1 TO R-1, CITY MANAGER'S REPORT

Mayor Walkup announced that city manager's communication number 282, dated May 12, 2003, together with the report from the zoning examiner dated April 25, 2003, would be received into and made a part of the record. He also announced that this was a request to rezone approximately 224 acres from RX-1 (suburban low density residential) to R-1 (low density residential) zoning. The rezoning site is located on the south side of Voyager Road, between the Kolb and Pantano Road alignments. The applicant is Michael Marks of MJM Consulting Inc., on behalf of the property owner, Mark Weinberg of WPI Kolb & I-10 LLC. He asked if the applicant or a representative was present and if so, were they aware of and amenable to the proposed standard conditions.

Michael Marks, MJM Consulting, Inc., representing Diamond Ventures, said they were in agreement with the city manager's report and his recommendation. They had reviewed all of the conditions and they were in agreement with all of them. He asked for mayor and council approval and said he would be happy to answer any questions.

It was moved by Council Member Dunbar, seconded by Council Member Leal, and carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused) that in zoning case C9-03-1, staff be directed to prepare an ordinance rezoning the subject property from RX-1 to R-1, together with the conditions recommended by the city manager and zoning examiner.

13. REAL PROPERTY: ACQUISITION OF PROPERTY AT 1310 W. MIRACLE MILE FOR A TUCSON POLICE DEPARTMENT SUBSTATION

Mayor Walkup announced that city manager's communication number 276, dated May 12, 2003, would be received into and made a part of the record. He asked the city clerk to read resolution no. 19589 by number and title only, without objection.

Resolution No. 19589

Relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property for the Northwest Tucson Police Department Substation; and declaring an emergency.

It was moved by Council Member Dunbar, seconded by Council Member Leal, that resolution no. 19589 be passed and adopted.

Council Member Ibarra congratulated Council Member Dunbar, Police Chief Miranda, John Updike, city manager's office, and everyone who worked on this project. The project was a fantastic idea and in a good location. He thought Council Member Dunbar was right to state the lack of services in ward three. He hoped this was the first step for a major police station in ward three, then parks and recreations centers. To be honest, he said ward three had been lacking for the past few years in services. He passed by this location on a daily basis and he thought it was a fantastic idea. It really showed that staff was looking outside of the "box" on this one and he just wanted to say, felicidades.

Mayor Walkup asked the record to show harmony and called for the vote.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Resolution no. 19589 was declared passed and adopted by a roll call vote of 6 to 0.

14. PUBLIC HEARING: TUCSON CODE (CHAPTER 19) AMENDING THE MODEL CITY TAX CODE

Mayor Walkup announced that city manager's communication number 279, dated May 12, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing on an amendment to the Model City Tax Code. The public hearing was scheduled to last no more than one hour and speakers would be limited to five-minute presentations. He asked if anyone wished to speak and hearing no one, called on the council's pleasure.

It was moved by Council Member Ronstadt, seconded by Council Member West, and carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused), to close the public hearing.

Mayor Walkup asked the city clerk to read ordinance no. 9841 by number and title only, without objection.

Ordinance No. 9841

Relating to the Privilege License Tax; adopting the 2002 amendments to the Model Tax Code as part of the Tucson Code; establishing an effective date; providing for severability; providing penalties for violations; and declaring an emergency.

Kathleen S. Detrick, city clerk, noted that she had a clerical correction to the ordinance, as follows: Section 19-110 should be corrected to read "Section 19-100." The colon at the end of that sentence should be deleted and the words "as follows:" inserted; followed by the words "Section 19-100. General Definitions. For the purposes of this article the following definitions apply:".

Council Member Ronstadt noted that there was some model language that was submitted regarding franchise fees, which he wanted brought back for consideration of inclusion in the tax code within the next couple of weeks. He said there were some issues of potential triple taxation that needed to be addressed. He just wanted to bring that up, and it was not necessary for staff to respond now.

It was moved by Council Member Ronstadt, seconded by Council Member West, that ordinance no. 9841, as amended, be passed and adopted.

Mayor Walkup asked if there was any discussion.

Council Member West asked staff to explain the changes and how those affected would be notified. As she understood, taxpayers would not have to pay any additional taxes.

Scott Douthitt, finance director, said the process to modify the Model Cities Tax Code is one where the city had to bring forward a proposal to the Arizona League of Cities and Towns, which acts as staff for the Model City Tax Code Commission. Basically, that amendment is then put in form by the Unified Audit Committee. Once the Model Cities Tax Code Commission adopts it, all cities and towns in Arizona are required by state law to adopt the amendments to the code. The city has no option, but to comply with state law.

Mr. Douthitt said there were three housekeeping issues before the council. The first one would extend the exemption on construction materials that are used in the construction of nonprofit hospitals and clinics. Secondly, was to bring the city's code in compliance with the state code adopted in 1997. He was referring to the fees on the lead acid battery and on waste oil. At one time these fees were rebated to either the state or the federal government. That was no longer the case. What the code used to say is that both those items were exempt from taxation because the fees were being remitted to another government. Now that is no longer being done, so therefore, they are taxable, unless the merchant refunds the fee. Otherwise, they just keep it as income and not pay it to anybody else. Thirdly, was to modify the definition, if there was a change in construction tax and when that change would take effect. If in the midst of construction and permits the sales tax related to that construction was changed, the sales tax fee would not apply. The fee would apply to new people coming in with new construction.

Mr. Douthitt continued that the next issue was how the populace would be informed of those changes. There would either be a mailer with the monthly sales tax return that goes out to a business, or an individual mailer could be sent out, apart from the sales tax bill. These changes were just housekeeping in nature. The reason these changes were being considered was because the Municipal Tax Code Commission brought them forward. The city was obligated to include these changes in the code.

Mayor Walkup asked if there was further discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Leal, and Ronstadt;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Scott

Ordinance no. 9841, as revised, was declared passed and adopted by a roll call vote of 6 to 0.

15. PUBLIC HEARING: TUCSON CODE (CHAPTER 23) AMENDING THE *LAND USE CODE* RELATING TO SALVAGING AND RECYCLING

Mayor Walkup announced that city manager's communication number 283, dated May 12, 2003, would be received into and made a part of the record. He also announced that this was the time and place legally advertised for a public hearing with respect to amendments to the *Land Use Code* relating to household goods' donations centers. The public hearing was scheduled to last no more than one hour and speakers would be limited to five-minute presentations. He asked for staff's presentation.

Albert Elias, comprehensive planning task force director, said the proposed amendment was to the *Land Use Code* that would formally recognize household good donation centers as a permitted use in commercial zones, subject to a special exception process in the C-1 and C-2 zones, and some performance criteria. Currently, these kind of centers are allowed to accept items that have no retail component and cannot be located in the C-1 zone. In the past, the zoning administrator determined that without a retail component these uses must be in the C-2 zone. Staff also did some research that indicated Pima County did not address these uses specifically, but they have interpreted that they are community services office uses and they are allowed with donations only.

Mr. Elias recapped that the proposed *Land Use Code* amendment adds household goods' donation centers to the salvaging land use class in the commercial zones, it would allow them in the C-1 and C-2 zones as a Type V special exception process, and it establishes some performance criteria that really speaks to the problematic aspects of these facilities. The amendment also requires permanent building staffed by an attendant during operating hours, it requires security procedures, physical barriers to prevent nighttime operations and nighttime donations occurring, and it also requires the filing of a security management plan so that these issues of materials and donations can be put in a secured area. Staff believed that the Type V special exception process and the

performance criteria addressed the need for site specific review. The zoning examiner would review these on a case-by-case basis, and have the opportunity to hear testimony from the applicant as well as affected property owners regarding the impacts associated with these facilities. Staff also believed that the proposed code amendment allowed these appropriately in various zones. It also allowed for both for profit and nonprofit organizations to be able to locate attended donation centers in commercial zones.

Mr. Elias said that staff recommended that the proposed code amendment be adopted. He also noted that the planning commission voted in favor of the proposed code amendment.

Mayor Walkup said he had quite a number of cards from people who wanted to speak in favor of the proposed code amendment, mostly from the Goodwill Industries. There was also a presentation with exhibits and if the right person proceeded in the right sequence, the public hearing could move steadily forward.

Frances Lynch, representing Goodwill Industries, said a number of people were available to speak. She thought if people were allowed to speak one at a time, it would make a lot of sense. Her client's position was that there was some additional information that the mayor and council should consider with respect to this particular change in the *Land Use Code*. In fact, perhaps, even beyond the hearing.

Ms. Lynch requested the opportunity to give their presentation and the mayor and council could consider it at a later date. They could make their presentations one at a time, if that was acceptable to the mayor and council.

Mayor Walkup asked that speakers keep within the five-minute rule and asked her to proceed.

Ms. Lynch continued that they were requesting that the mayor and council ultimately decide, with some additional information, and continue the vote on this particular issue to a later time. She thought that would become clear once the council heard the presentation as to why that was necessary.

Ms. Lynch introduced Suzanne Lawder, CEO of Goodwill Industries.

Suzanne Lawder, said Goodwill basically puts people to work. They have looked at lowering the poverty level in the community by one job at a time, one family at a time. They were committed in this community to moving forward with lowering that poverty level. They had served 1,100 people. Most people don't realize they serve the working poor, those on welfare, as well as people with disabilities. Anyone with a barrier to employment is served by Goodwill. They kept approximately ten million pounds of goods out of the landfill, which was diverted. As shown in the presentation, Goodwill had a \$2.5 million income in wages earned by its employees. They also have a work center that provides services to people with disabilities, but in addition to that, they provide a company-wide contract service to people who come into the community, as well as to companies in Tucson. It provides meaningful work.

Ms. Lawder said they currently have a program in collaboration with the city, which serves 200 plus adults. They train them in the teleservice industry, and then find them

jobs. People who had never touched a computer before, after seven weeks with the training program, have a job with full-time benefits between \$7.50 and \$9.50 an hour, which is family and child friendly. They were currently at 123 people.

Ms. Lawder said about a year ago, their board noticed that the federal, state, and local governments were running out of funds to fund all of the community services that were necessary. They looked at the strategy and they knew that they could turn donations into services. Their board then looked at putting in permanent sites. They wanted to know how to be a better part of the community and contribute and be a part of the solution. The board decided on ten attended sites around the community, at which they would be able to recycle, and take those goods and those donations and turn them into services for people in Tucson. She said she is on the work force investment board and they decided to place job connection sites in their store sites, and if necessary on their ADC sites. There would also be access to a computer.

Ms. Lawder noted that the chair of their board is an award-winning architect and she displayed the original model of Goodwill Industries. It may look different, but they're also looking at infill that will be convenient for the community, and provide work for the community. The sites need to be about three thousand square feet.

Ms. Lawder continued with the slide presentation and said they knew this would work, but they never tried it before. They purchased an existing building on Broadway and Sarnoff. Several things happened. One, their donations tripled and when they tripled, they were still prepared for their normal donations. The donations were so overwhelming and the positive response of the community was amazing. They wound up with donations that they did not anticipate. The other issue with respect to C-1 zoning, is that the people contribute because it's easy. They contribute because it's convenient. They recycle because it's convenient. They had people tell them, with perfectly good couches, that if they weren't available, they would have taken them to the landfill.

Ms. Lawder said something else they learned was that their current system was overwhelmed with those donations. They learned about the C-1 zoning that was needed, and also their first site was adjacent to a 24-hour business that was open fulltime, which of course invited a lot of people in. They accepted that the business was open, but what occurred was that donations started being left all over the place. They were unable to manage the donations, but in response to that they extended Goodwill's hours. There were additional pickups, they spoke with their neighbor and offered to share the expense for the nighttime employee. In addition to that, they now have someone onsite 24 hours a day, seven days a week.

Ms. Lawder continued with the slides and said she wanted to demonstrate what Goodwill had learned from past lessons. They got a new site on Oracle and River. She displayed a citation they were issued. They wound up with a great building. It stands alone, and well lit, they have been in operation for over a year, with no complaints, no problems, it worked very well for them. So although they made some mistakes with their first prototype, they would not choose that particular site again. However, that was corrected on the second site, and they now have two to three pick ups, nightly, from all of their sites.

The current language of the amendment is too restrictive, it would be very difficult to buy land or property and then have to go through the processes and sometimes it might be expensive in terms of time. So they requested a continuance to review more options with the staff.

Mayor Walkup called on those individuals who had submitted requests to speak.

Bruce Romano, said he represented the ownership of the property on which the laundromat and dry cleaner are located, and also the ownership of the property to the west of that, which is Wells Fargo Bank. His client owns both contiguous properties. They in fact sold the land and the old Circle K to Goodwill. They as the owners of the contiguous properties were very supportive of what Goodwill had done there and what Goodwill does in the community. When they first opened the site it was a new concept and it was overwhelming. However, they made it work, and they made it work for the community. Their goal was to add an attended center, which was a huge difference between an unattended donation center, throughout the city. It's a complicated process and nobody wants junk all over the place. They are certainly no exception. They certainly struggled with their laundromat tenant. When they had broken machines, they stored them out back and it looked awful. The process is complicated enough that he would request that the mayor and council continue this item until such time as Goodwill works with the staff to come up with a program that adequately addresses the concerns of the staff and still meet the needs of the community.

Guillermo Robles, said he is one of the board members at Goodwill Industries. He has been with the board about twelve years. He had seen Goodwill go from almost bankrupt because there wasn't any money, as was shown in the presentation. The board decided to copy something from Portland, which probably had the most successful Goodwill Industry in the country. What they did was put in attended centers and based on the first one, it was evident that it was a great revenue generator. He noted that with revenue they could provide services.

Mr. Robles said earlier there was a comment about taxing and spending. Goodwill was not asking for any money, what they were asking for was an opportunity to generate their own revenue. Unfortunately, the way the proposed ordinance was worded, it would restrict them too much. They requested a continuance so that they could work with the staff and agree on the wording. Over the years they went to the point of bankruptcy because they didn't have the money. This is what was going to save them. Not only was it going to save them, it would allow them to provide more services to more people. Why? Because the government was getting out of the business. Goodwill was trying to take over that side of the business.

Lynda Booth, representing TeleTech, located at 2929 E. Corona Road, the recruiter at TeleTech, said their call center, as well as the 40 plus other call centers in Tucson constantly look for candidates that have good computer skills as well as customer service skills. They were happy to find that Goodwill Industries provided a teleservices training program to Tucson residents and taught individuals the required skills to have a successful career as a call center employee. TeleTech had proudly attended the graduation ceremonies of the Goodwill Teleservices Training Program. The individuals who had successfully completed this program and who graduated have gained self-esteem and the skills needed to work in a call center

environment. This program was an asset to the community. Helping people obtain jobs helps the economy and unemployment rates. Needless to say, it was also providing these individuals the opportunity to gain valuable skills that they could not afford without the support of Goodwill. Plus, these individuals were able to work in the call center industry that was such a vital part of Tucson.

TeleTech hired many of the graduates from the Goodwill program and recognized them as successful employees. They had been well prepared for their work environment and demonstrate that they know what is needed to be successful in a call center work environment. They learned work ethic, interaction and technical skills through the Goodwill program. TeleTech is a proud employer of Goodwill graduates and a proud supporter of the Goodwill Teleservices Program.

As a resident of Tucson, Ms. Booth said she used the Goodwill drop-off located on Thornydale Road. This drop-off is very convenient to her home and it was the convenience that made it possible for her to drop-off the many donations that she has given for such a great cause. She found it very valuable to support Goodwill and their efforts in the community. As a resident and a business partner, she looked forward to her continued support of the Goodwill program, and hoped that the city of Tucson would continue its support of the invaluable resource for the citizens and business community.

Council Member Leal said the speakers so far had focused on why Goodwill deserved the change. They asserted that as the ordinance is drafted, it was too restrictive. But, there was a disconnect. He would like staff to address what was too restrictive. That was what he needed to understand. He understood what they did and what was good about it, but that was not what land use is about. He asked for an explanation of the problem with staff's proposal.

Frances Lynch, attorney for Goodwill Industries, said she was prepared to speak about that. The reason the ordinance was too restrictive and the reason they were asking not to pass it in its present condition was because Goodwill Industries basically would not be able to use it. Not only that, no other nonprofit organization would be able to use it for the purpose that it's passed and she was going to tell the mayor and council why. Ms. Lynch said there's a Type V administrative review process. They worked with the staff for over a year and initially they had come up with a Type IV administrative review process, which is less restrictive. Under a Type V administrative review process, it was possible that they could end up before a public hearing before the mayor and council. Why did that make a difference? Well, it made a huge difference in terms of time. If her clients were going to buy a piece of property, then they have to have a feasibility period where they say to the seller, "Okay, we want to buy your piece of property, but we have to check out and make sure, that we can put what we want to put on this piece of property." And in order to do that, they would have to go to the city, and go through the process and they would have to get the approval. And the seller would say, "Okay, how long is that going to take?" Ms. Lynch said if it was a Type IV administrative review process it was going to take a lot shorter time than potentially if it was a Type V. They could be talking about several months.

Ms. Lynch continued that the city attorney could be telling the council that a Type V could be done in 70 days, and that's true, if there was no problem. Theoretically, the issue could end up in public hearing similar to this, and there could be significantly more

time. That's problem one. They are talking about a type V administrative review process for both C-1 and C-2. Now right now, they could go buy a piece of property in C-2 and put one of these attendant donation facilities on it with no restriction whatsoever. But if the proposed ordinance passed, then they would be more restricted than they already were. So that was the first problem. The second problem was that there is a very unusual provision in the code that made it really a true conditional use provision, which is that the zoning examiner could arbitrarily at any time, and without a hearing, without due process, revoke their ability to run their business and there is no other business in the entire city code that has this type of restriction; not a nightclub, not any kind of adult bookstore. There is nothing. But, Goodwill Industries should have this. It was kind of crazy when one thought about it. Also, she thought there were some real legal problems with it in that there was no due process in terms of if they wanted to stop the zoning examiner from doing that, they would have to go to Superior Court and get some kind of restraining order. The ordinance was really problematic the way the ordinance was written. Ms. Lynch thought it needed some more work as far as that goes and Goodwill Industries would like some more time to discuss it with staff, and there were some major changes from the time that it was first presented to the Planning Commission to the time that it left the Planning Commission and came to mayor and council. For those reasons, she asked for more time and a continuance.

Council Member Leal said that Ms. Lynch's explanation helped; now he knew what questions to ask.

Jane Schmelzle, said her daughter, Jill, is 23 years old, was born with Spina Bifida and is confined to a wheelchair. It may not be politically correct to say so, but Jill is both physically and mentally handicapped. Jill graduated from Flowing Wells High School in 1998. While many of her classmates went on to college or glamorous careers, Jill did not have that capability. After searching for a while, she was able to find a job at Goodwill Industries on Silverlake. Jill recently celebrated her fourth anniversary at Goodwill.

Ms. Schmelzle continued that Goodwill had given her a sense of self-worth, and a feeling of belonging to a group. Jill takes pride in what she has accomplished at Goodwill. On different occasions over the past few years, Ms. Schmelzle said she had to pick up Jill early from work. Whenever she went into Goodwill to pick her up, she was always touched by the smiles on the faces of the people who work there. She had never seen a group of people so happy to be working. She knows that nobody at her office is in such good moods all of the time.

Ms. Schmelzle noted that that privilege can't be taken away. Goodwill stores need to stay open in Tucson so funds could be provided for the work center. She would hate to be the one to tell Jill and the others that they no longer have a place to work. She asked that the council not take that opportunity away from her daughter.

Rony Devorah, representing the owners of 455 W. River, a Goodwill donation center, like the one that was proposed to be changed, said their zoning is C-2 and as a tenant, Goodwill was doing a good job. They have an attendant donation center, with no problems. There are always collections there and all of the donations go directly to the distribution center on Silverbell. There was no clog up of merchandise and it had been very convenient for people to drop off things because of the central location.

Sharron Jergensen, said she was a totally and permanent disabled Veteran, with an honorable discharge. Some time ago, the Veterans' Administration evaluated her as unsuitable to be retrained or employed. That was very disappointing due to the fact that she is young and it seemed she had no future to look forward to. There was a flyer at the library about the ready to earn teleservices program at Goodwill Industries and knowing Goodwill trained and hired people with disabilities, she did not hesitate to call. Her first contact was Philip Wigtil and he was so encouraging that she applied at Goodwill. Throughout the training, Philip was always encouraging. She was computer illiterate before taking the class, and with his excellent training, she was now able to multitask on the computer.

Upon graduation, Ms. Jergensen said the job coordinator aided and assisted her with seeking job employment. She helped her with her resume, met her at job fairs and introduced her to perspective employers. She currently works at Cross-Country Automotive Services as a customer service representative for roadside assistance. Now when she goes home after work, she feels good about herself and her job because she helps people in their time of need.

For example, a call came through from a surgeon on the way to the hospital. She expeditiously gained all information and dispatched a service provider so that the doctor could catch a cab as soon as possible because he was due in surgery.

In closing, Ms. Jergensen thanked Goodwill Industries for the opportunity to make a real difference in her life. She earned a solid income and has a purpose in life with a rewarding job. No one could be more thankful than she to have such a sense of accomplishment. Goodwill took a chance on her when no one else would and helped her achieve a goal she never thought possible.

Clifford R. Schneider, owner of the laundromat immediately adjacent to the Goodwill Store on 8323 E. Broadway, said in response to Mr. Romano, there were times on a temporary basis, when he did have some stuff stored out behind the building but when he got three requests regarding the items from his landlord, he honored their removal in a matter of weeks, but what he was speaking about extended for a period of well over two years.

Mr. Schneider wanted to preface anything else that was said with this statement. He is a 25-year career educator who taught handicapped folks all those years including the bulk of that period of time as a vocational educator for handicapped people. He worked with Goodwill Industries in three different areas of the country; in Missouri, West Virginia, and in Arizona in Flagstaff in Northern Arizona. He always had the utmost respect for Goodwill and he still did. He believed firmly in the good things that they do for the community and he stood behind all their efforts. He thanked them for using his pictures, but he should have been given the credit for their use.

When Mr. Schneider first heard that Goodwill was going to open next door to him he was delighted because it had been a boarded up building for several years and nothing is any good next to an existing business, as the mayor and council might imagine, including a boarded up business. When he heard that Goodwill was going in he thought, "Wow, this is great. I had all these good experiences with them over the years with the things they did for my handicapped students."

Mr. Schneider pointed out what a letdown it was when he found out what a lousy neighbor they were, because this condition was allowed to go on illegally for over two years. Around the first of this year when they were going to get cited by the city attorney for the continued violations of the zoning laws, they took some action. They extended their hours significantly into the evening until he thought around nine or nine-thirty, and that did have quite an impact on the trashy messes that could be seen in the pictures he had with him. So, when the attorney called him at the first part of the year and asked him about it, being trained a person who always wanted to offer positive reinforcement, he said, "Oh, yes, I was very happy because of course there was a limitation now that they did not have anywhere near the mess as they had been having."

Mr. Schneider said his laundromat had been there for about eight years as a 24-hour operation and they did not have anything dumped around there, except once in a while out in back they had wildcat dumping, which happens, but the images that could be seen in his photographs were regularly occurring things that went on over a period of two years. Initially, after the complaint, within a month or two after they opened and he saw those things, he took his complaint directly to Goodwill, he believed in going right at a problem if that was at all possible but he just got brushed off. Two or three different people came over and introduced themselves at one time or another and said they were this person or that person newly hired. He guessed that must have been the Litmus test when they got hired and sent them over to see the guy at the laundromat to see if they could appease him, while this mess continued night after night after night.

At the beginning of the year, Mr. Schneider was happy that things were better, but it took over two years with complaints to the zoning department, complaints to the city attorney. He tried to go through his city council office, through Carol West's office, that yielded nothing. Everybody wanted to support Goodwill, however, whatever the mayor and council did with their consideration of the amendment that Goodwill themselves had asked for, the mayor and council needed to ensure that no one needed to live with that kind of grief.

Mr. Schneider had put in, he could not even tell the mayor and council, how much time, let alone the photographing and the things that took part while he was there, and the difficulties of dealing with people there, because this operation was allowed to exist for over two years. He applauded Goodwill Industries, he applauded all the good that they do for the community, but that did not give them the prerogative to be a bad neighbor. That was all that Mr. Schneider was asking for. He had a brand new laundromat that was just going to open within a few days. It has been remodeled at considerable expense. Right now, they have a guard on duty all night long, so Mr. Schneider did not have a problem at this point, but whatever the mayor and council did with the *Land Use Code*, he would say that they might want to follow the direction of the folks who had worked hard for the city and the Planning and Zoning Commission, which he addressed a few weeks ago on this issue and who asked for this amendment to be put through, and to be sure that no one in the community had to deal with this situation again. That was Mr. Schneider's position on it. He asked if there were any questions. There was no response.

Mayor Walkup thanked Mr. Schneider, said he had no other speaker cards and asked if anyone else wished to speak on this subject at this time. No one came forward.

It was moved by Council Member West, seconded by Council Member Dunbar, and carried unanimously by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused) to close the public hearing.

Mayor Walkup asked the council's pleasure.

Council Member West said Ms. Lynch made some comments about this *Land Use Code* Amendment. She believed that it had legal problems with due process. Council Member West wondered if Mr. House could address some of her concerns.

Michael House, city attorney, believed that Ms. Lynch was referring to a provision that allowed the zoning administrator to suspend the use if there were violations of the ordinance provisions. He asked Mr. McCrory if that was correct.

Michael E. McCrory, senior assistant principal city attorney, answered that information was correct.

It was Mr. House's understanding that that decision could be appealed to the Board of Adjustment. There would be a notice of public hearing at which time there would be full due process rights given to any party who wished to speak and the decision could be further appealed in court.

Council Member West confirmed that there would be an appeal process with this amendment and there were some other concerns mentioned as well about the time line and asked if Mr. Elias could address that issue.

Albert Elias, comprehensive planning task force director, believed that the concern was that the Type V Special Exception Process would take about seventy days and they felt that was too long. However, the Type V process did allow for notice to the property owners in the area and give them an opportunity to provide feedback to the Zoning Examiner who would make the decision on this. Without that process, that would not occur.

Council Member Leal had a couple of concerns. He thought it was important to say that when the mayor and council thought about changing the code, they could not just think about the particular person or group that had raised the question. The code had to work in the worst of situations, not in the best of situations, or with the worst of people, not the best of people. He understood the concern about the difference between the Type V and the Type IV, but at the same time, he thought it was important that there be as much due process on both sides of the street for the applicant as much as for the community they may be going into. The other thing he thought was important to say was that the council repeatedly had wanted Type V's. He was concerned about granting a Type IV because other folks who have wanted the special use exemption processes, who had wanted a Type IV, the mayor and council had said, "No, no, it had to be a five." He was worried about that being used against the city of Tucson later for another activity.

Council Member Leal said the third thing he was concerned about was that when most people think about C-1 or C-2, they were inclined to think about major streets. Unfortunately, in Tucson, the landscape is littered with a collection of bad decisions. There is a whole bunch of C-1 and C-2, not at the periphery, inside the body of

neighborhoods. So another organization, or another person, who wanted to do this could get a better deal because property off the arterial is cheaper than that on the arterial. To buy property zoned C-1 or C-2 and if it's just going to the zoning examiner, could maybe get it through, whereas it would be harder to get it through if it just came to the mayor and council because they are elected by the public and more accountable and maybe think harder about some of the implications of those decisions.

Council Member Leal knew this land use code amendment was going to come back to the mayor and council, and it would be important to him that if C-1 and C-2 would be allowed for this that it only be C-1 and C-2 on an arterial, that no one had the right or the authority under any circumstances to prevent this kind of activity in a neighborhood off of an arterial. He offered that information for staff's consideration as the amendment was reviewed.

Mayor Walkup asked if Council Member Dunbar wanted to speak.

Council Member Dunbar had a question and asked if they were discussing the Type V and the Type IV and then there was discussion regarding the due process issue and it may be seventy days. Seventy days, if a person is looking to buy a piece of property, most people don't want to hold their property in escrow waiting for it. That's a long time to wait and try to go through the expense of a public hearing, so she was concerned about the due process issue there and asked if Mr. Elias could address that.

Mr. Elias said the issue here was, certainly it did take time to go through the Type V process, there was no denying that, but he thought it was the process that allowed for the most assurance with respect to notice to affected property owners and residents of an area to be able to weigh in on the process, particularly if there was an issue. If there was no issue, typically, these types of requests were approved in a fairly straightforward manner. Generally, they get drawn out when there is some issue that has caused concern on the part of property owners, and that was just his experience in dealing with these special exception processes. He acknowledged that there was a time element involved but the purpose of the time was to allow for participation by affected parties.

Mayor Walkup said a request had been received for the council to consider extending this issue and giving Goodwill a chance to work with the city in an extended manner. Was there any downside to that?

Mr. Elias answered that if for some reason the mayor and council felt that they would like to continue the item then the appropriate action would be to remand it back to the Planning Commission. At that point, the Planning Commission was the one who had the public hearing on this matter and typically the staff would not want to dramatically depart from the information that they received during their public hearing.

Michael House, city attorney, pointed out that if there was some thought that there would be substantial changes made to what had been recommended, then it was his recommendation to refer the issue to the Planning Commission.

Mayor Walkup did not know what course should happen frankly.

Council Member Dunbar said to that point, what the council heard in testimony was that the issue had changed since it came from the commission originally, so was the council looking at the recommendation from the Planning Commission or something different.

Mr. Elias believed the Planning Commission referred to a change to what had been presented to them at their study session versus what they recommended to the mayor and council. The staff recommendation was the recommendation of the Planning Commission.

Council Member West noted that a letter had been included with the mayor and council materials from the Planning Commission, which in effect said, “. . . The commission members felt that review through the Type V process is recommended for C-1, which includes the public hearing would provide the site specific review necessary to consider the impact household goods donation centers have on adjacent properties, both residential and commercial. The commission recommended that donation centers located in the C-2 zone also be reviewed through the Type V administrative special exception land use process. This recommendation is reflected in the draft amendment.” The letter was signed by Robert J. Tomlinson and the vote was 7 to 0 with six members absent.

Mayor Walkup didn't know about the rest of the council, but he wanted to see this issue go back to the Planning Commission for at least one more round before it came back to the mayor and council.

It was moved by Council Member West, seconded by Council Member Leal, to remand the matter to the Planning Commission.

Ms. Lynch wondered if it was possible to be sent this issue back to the city attorney's office because there were legal issues concerning the conditional use revocation, and she did not know if the Planning Commission would be the most appropriate body to address those. It seemed like the city attorney's office might be the more appropriate office to address that.

Mr. House pointed out that the city attorney's office advised the Planning Commission.

Mayor Walkup thought that fell into the category of “work out the details.”

Council Member Leal asked if Council Member West was comfortable including the question he raised to ask the Planning Commission to take a look at not allowing the amendment within the body of a neighborhood.

Council Member West said that would be fine to include looking at it within the body of a neighborhood. She had not thought about that issue until Council Member Leal brought it up but that was something that certainly could be a part of this direction.

The motion to remand the matter to the Planning Commission carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused).

16. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced that city manager's communication number 277, dated May 12, 2003, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member West, seconded by Council Member Leal, and carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused) to appoint Bob Richardson to the Citizens Transportation Advisory Committee.

It was moved by Council Member West, seconded by Council Member Leal, and carried by a voice vote of 6 to 0 (Vice Mayor Scott absent/excused) to reappoint Patricia Weidhopf (Libraries/Museums/Arts) to the Metropolitan Education Commission.

Council Member Dunbar announced her personal appointment of Judi Stern to the Public Art and Community Design Committee.

Council Member West announced her appointment of Don Windmiller to the Small Business Commission.

17. CALL TO THE AUDIENCE

Mayor Walkup announced that this was the time that had been scheduled to allow any member of the public to address the mayor and council on any issue. Speakers would be limited to three-minute presentations. He asked if anybody wished to address the council at this time. There were no speakers.

18. ADJOURNMENT: 9:49 p.m.

Mayor Walkup announced that the next regularly scheduled meeting of the mayor and council would be held on Monday, May 19, 2003, at 2:00 p.m. in the Mayor and Council Chamber in City Hall, 255 W. Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the city of Tucson, Arizona, held on the 12th day of May, 2003, and do hereby certify that it is an accurate transcription of the magnetic tape record of said meeting.

MANAGEMENT ASSISTANT

KSD:DJ/LC:ss/nd
pr agnst tp:dmp